

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1761V

UNPUBLISHED

GEORGE PHILLIP RIVERA,
also known as
GEORGE RIVERA-GONZALEZ,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 21, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

Roberto Ruiz-Comas, RC Legal & Litigation Services PSC, San Juan, PR, for petitioner.

Lisa Ann Watts, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On November 15, 2018, George Phillip Rivera aka George Rivera-Gonzalez filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that he developed Guillain-Barre syndrome (“GBS”) as a result of an influenza vaccine administered to him on January 26, 2018. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 26, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation for his GBS. On January 21, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

\$250,000.00 for his past and future pain and suffering.³ Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$250,000.00, representing compensation for Petitioner's actual and projected pain and suffering, in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.⁴

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ As a reduction to net present value is required for all compensation paid for Petitioner's projected pain and suffering (§ 15(f)(4)(A)) and this reduction is applied after the \$250,000.00 cap for amounts for pain and suffering (see (§ 15(a)(4); *Youngblood v. Sec'y of Health & Human Servs.*, 32 F.3d 552, 554-55 (Fed. Cir.1994)), I assume at least \$250,000.00 is attributable to Petitioner's past pain and suffering.

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

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ECF-SPU

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On November 15, 2018, George Phillip Rivera, also known as, George Rivera-Gonzalez (“petitioner”) filed a petition for vaccine injury compensation alleging that he developed Guillain-Barré syndrome (“GBS”), a Table injury, following receipt of an influenza (“flu”) vaccination administered on January 26, 2018. Respondent filed his Rule 4(c) Report conceding entitlement to compensation on November 25, 2019. The Court issued a Ruling on Entitlement on November 26, 2019.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded a total of \$250,000.00 for his past and future pain and suffering. This represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future damages.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$250,000.00 in the form of a check payable to petitioner.²

Petitioner agrees.

Respectfully submitted,

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Assistant Attorney General

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Torts Branch, Civil Division

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Deputy Director
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s/Lisa A. Watts
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DATED: January 21, 2020

² Petitioner is a competent adult. Proof of guardianship is not required in this case.